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(Business Entity Name)

W13-7664

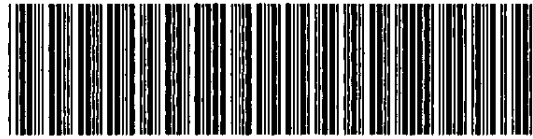
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FILED  
13 APR 23 AM 11:30  
TALLAHASSEE, FLORIDA

APR 24 2013  
N. CAUSSEAU

**COVER LETTER**

**TO:** Registration Section  
Division of Corporations

**SUBJECT:** GRAN PARIS BAKERY (Stylized Logo)

(Mark to be registered)

The enclosed Trademark/Service Mark Application, specimens and fee(s) are submitted for filing.

Please return all correspondence concerning this matter to the following:

Ury Fischer

(Name of Person)

Lott & Fischer, PL

(Firm/Company)

355 Alhambra Cir. Suite 1100

(Address)

Coral Gables, FL 33134

(City/State and Zip Code)

For further information concerning this matter, please call:

Ury Fischer

(Name of Person)

at (305) 448-7089

(Area Code & Daytime Telephone Number)

**MAILING ADDRESS:**

Registration Section  
Division of Corporations  
P.O. Box 6327  
Tallahassee, FL 32314

**STREET/COURIER ADDRESS:**

Registration Section  
Division of Corporations  
Clifton Building  
2661 Executive Center Circle  
Tallahassee, FL 32301

**(NOTE:** The information contained in this cover letter will be included in the permanent record and will be available to the general public.)



FLORIDA DEPARTMENT OF STATE  
Division of Corporations

February 7, 2013

URY FISCHER, ESQUIRE  
LOTT & FISCHER, PL  
355 ALHAMBRA CIRCLE, SUITE 1100  
CORAL GABLES, FL 33134

SUBJECT: GRAN PARIS BAKERY  
Ref. Number: W13000007664

We have received your document for GRAN PARIS BAKERY and your check(s) totaling \$87.50. However, the document has not been filed and is being retained in this office for the following:

*In lieu of returning your document, we have corrected the disclaimer statement on your document. We have inserted the term(s) "PARIS" in your disclaimer statement. A disclaimed term is still considered part of your mark. You simply do not claim the exclusive right to the use of the disclaimed term(s) apart from your mark.*

Please notify this office in writing if you would like this office to proceed with your filing.

You may comply with this request via fax. Please fax correction(s) to the attention of the undersigned examiner at 850-245-6030.

Pursuant to s. 495.035(5), F.S., this application will be considered abandoned if the applicant fails to reply or resubmit the corrected/amended application within three months from date of this letter.

If you have any questions concerning the filing of your document, please call (850) 245-6051.

Nanette Causseaux  
Document Specialist Supervisor

Letter Number: 513A00003101

# LOTT & FISCHER

Reply to Ury Fischer  
E-mail: [ufischer@lottfischer.com](mailto:ufischer@lottfischer.com)

April 18, 2013

Ms. Nanette Causseaux  
Document Specialist Supervisor  
Registration Section  
Division of Corporations – Clifton Building  
2661 Executive Center Circle  
Tallahassee, Florida 32301

Via  
FedEx  
Tracking No. 7995 5656 4278

Re: Florida Trademark Application  
Mark: **GRAN PARIS BAKERY**  
Class: 035  
Ref. Number: W13000007664  
Letter Number: 513A00003101  
Our File No. 19211-1-8010

13 APR 23 AM 11:30  
FBI  
MTE  
FBI

Dear Ms. Causseaux:

We received your letter dated February 7, 2013 regarding Superior Cakes, Inc.'s ("Applicant") application to register the service mark, **GRAN PARIS BAKERY** in connection with "Retail Bakery Shops." Applicant acknowledges that the application has not been filed but that it will be filed upon Applicant's agreement to disclaim the term "PARIS." Applicant respectfully requests that the term "PARIS" **not** be disclaimed and submits the following response in support of its request:

## RESPONSE

The Florida Statutes do not require that a geographical term be disclaimed. Rather, the Florida Statutes, specifically, FLA. STAT. §§ 495.035(3) and 495.051, state:

The Department of State *may* require the applicant to disclaim an unregistrable component of a mark otherwise registrable, and an applicant may voluntarily disclaim a component of a mark sought to be registered. No disclaimer shall prejudice or affect the applicant's or registrant's rights then existing or thereafter arising in the disclaimed matter, or the applicant's or registrant's rights of registration on another application, if the disclaimed matter is or has become distinctive of the applicant's or registrant's goods or services. (emphasis added).

Given the foregoing, Applicant respectfully states that the term "PARIS" should not be disclaimed and refers to FLA. STAT. § 495.181 as its authority to use federal law to interpret the State's trademark laws. FLA. STAT. § 495.181 states:

INTELLECTUAL PROPERTY LAW

355 ALHAMBRA CIRCLE, SUITE 1100, CORAL GABLES, FLORIDA 33134  
305/448-7089 · WWW.LOTTFISCHER.COM

The intent of this chapter is to provide a system of state trademark registration and protection substantially consistent with the federal system of trademark registration and protection under the Trademark Act of 1946, as amended. To that end, the construction given the federal act should be examined as persuasive authority for interpreting and construing this chapter.

Applicant asserts that the term "PARIS" should not be disclaimed, for two reasons. First, the term "PARIS" in Applicant's mark **GRAN PARIS BAKERY** is not primarily geographically descriptive; and second, even if the term "PARIS" in Applicant's mark is primarily geographically descriptive, the term has acquired distinctiveness through Applicant's substantially exclusive and continuous use, and is therefore registrable pursuant to Section 2(f) of the Federal Trademark Act.

In accordance with the Trademark Manual of Examining Procedure (TMEP), § 1210.01(a), in order for a mark to be primarily geographically descriptive, it has to meet the criteria set out below:

- (1) The primary significance of the mark is a generally known geographic location;
- (2) The goods or services originate in the place identified in the mark; and
- (3) Purchasers would be likely to believe that the goods or services originate in the geographic place identified in the mark.

Applicant's mark does not meet any of the above criteria – the term "PARIS" is not the primary significance of the mark, as it is just one of three terms that make up the mark; the retail bakery shop services offered under the mark do not originate in Paris; and purchasers would not be likely to believe that these services originate in Paris. In fact, the Federal Circuit has noted that "geographic marks in connection with services are less likely to mislead the public than geographic marks on goods" (*In re Les Halles de Paris J.V.*, 334 F.3d 1371, 1374 (Fed. Cir. 2003)), which means that it is harder for service marks to meet criteria (2) and (3) above. The public is not likely to believe that Applicant's services originate in Paris and the public is similarly not likely to associate Applicant's services with Paris any more than it would with any other city in the world. Retail bakery shop services are not unique to a particular geographic area. Furthermore, because Applicant's services are specifically related to food items, including fresh baked goods, purchasers would certainly not be likely to believe that the food items found in Applicant's retail bakery shops come from Paris, as it would be virtually impossible to maintain a fresh supply of these products if they came from another country. When Applicant's mark is taken as a whole, then, in connection with the services it offers, it is apparent that the term "PARIS" is not primarily geographically descriptive.

Nevertheless, even if the term "PARIS" in Applicant's mark is primarily geographically descriptive, Applicant's mark has acquired distinctiveness as to the portion of its mark including the term "PARIS," through its substantially exclusive and continuous use of its mark both inside and outside of Florida since 1975, as indicated on its application. Section 2(f) of the Trademark

Ms. Nanette Causseaux  
Division of Corporations  
April 18, 2013  
Page 3 of 3

LOTT & FISCHER

Act provides that proof of five years of substantially exclusive and continuous use of the mark before the date on which the claim of distinctiveness is made is prima facie evidence that an otherwise descriptive mark (including a primarily geographically descriptive mark) has acquired distinctiveness among consumers, and that nothing shall prevent the registration of such a mark. 15 U.S.C. § 1052(f).

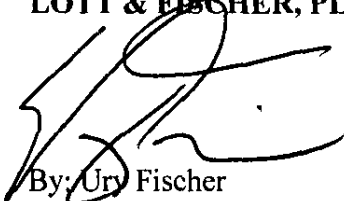
Thus, pursuant to 15 U.S.C. § 1052(f) and TMEP § 1210.06(a), which states, "When the examining attorney requires a disclaimer of primarily geographically descriptive matter, the applicant may seek to overcome the disclaimer requirement by submitting a showing that the geographic term has become distinctive under §2(f)," Applicant respectfully requests that it not be required to disclaim the term "PARIS" in its application to register the mark **GRAN PARIS BAKERY**. In accordance with TMEP § 1212.02(f)(i), Applicant's statement that the term "PARIS" has become distinctive of Applicant's services by reason of substantially exclusive and continuous use in commerce by the Applicant for twenty-eight (28) years, is sufficient to establish acquired distinctiveness of the term, and to therefore overcome the disclaimer requirement.

CONCLUSION

Consequently, Applicant contends that the term "PARIS" is not primarily geographically descriptive, and that the disclaimer is improper, particularly in light of the acquired distinctiveness of the term, "PARIS." Applicant requests that its application be filed with the Florida Department of State without disclaiming the term "PARIS."

Very truly yours,

**LOTT & FISCHER, PL**



By: Ury Fischer  
UF/nl  
Enclosure

FILED  
13 APR 23 AM 11:30  
TALLAHASSEE, FLORIDA

APPLICATION FOR THE REGISTRATION OF A TRADEMARK OR SERVICE MARK  
PURSUANT TO CHAPTER 495, FLORIDA STATUTES

TO: Division of Corporations  
Post Office Box 6327  
Tallahassee, FL 32314

FILED  
13 APR 23 AM 11:30  
TALLAHASSEE, FLORIDA

PART I

1. OWNER/APPLICANT: Enter the name and address of the individual or the business entity to be listed as the owner of the trademark and/or Service Mark on the records of the Florida Department of State.

(a) Owner's/Applicant's name: Superior Cakes, Inc.

(b) Owner's/Applicant's business address: 3026 NW 7th Street

Miami, FL 33125

City/State/Zip

If different, Owner's/Applicant's mailing address: \_\_\_\_\_

City/State/Zip

(c) Owner's/Applicant's telephone number: (305) 643-4281

Check the appropriate box to indicate the Owner/Applicant is a(n):

- Individual       Corporation       Joint Venture       Limited Liability Company  
 General Partnership       Limited Partnership       Union       Other: \_\_\_\_\_

If the Owner/Applicant is a business entity, the business entity must have an active filing or registration on file with the Florida Department of State. If the Owner/Applicant is not an individual, enter the business entity's Florida registration/document number in #1, the state or country under the laws of which the business entity is currently formed, organized or incorporated under in #2, and the entity's federal employer identification number (EIN) in #3.

(1) Florida registration/document number: 471806 ✓

(2) Domicile State or Country: Florida

(3) Federal Employer Identification Number: 59-1610576

2. (a) **SERVICE MARK:** If the owner/applicant is using the name, logo, design and/or slogan being registered in connection with a type of service, the mark is a service mark. If the mark is a service mark, the applicant/owner must list the specific service(s) the mark is being used in connection with. For example: furniture moving services, diaper services, house painting services, wholesale and retail sales of tractor equipment, etc. If the owner/applicant is using the mark to identify services available in the market place, enter the specific service(s) being rendered here:

(Note: List only those services currently being rendered by the owner/applicant. Do not include future services.)

Retail Bakery Shops

2. (b) **TRADEMARK:** If the owner/applicant is using the name, logo, design and/or slogan being registered in connection with an actual product manufactured by the owner/applicant or on the owner/applicant's behalf, the mark is a trademark. If the mark is a trademark, the applicant/owner must list the specific product(s) the name, logo, design and/or slogan is being used to identify. For example: ladies sportswear, cat food, barbecue grills, shoe laces, etc. If the owner/applicant is using the name, logo, design and/or slogan to identify goods available in the market place, enter the specific product(s) the name, logo, design and/or slogan is being used to identify:

(Note: List only those product(s) currently available. Do not include future products.)

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2. (c) **HOW IS THE NAME, LOGO, DESIGN AND/OR SLOGAN CURRENTLY USED:**

**SERVICE MARKS:** If the name, logo, design and/or slogan are/is being used in connection with a type of service, you must specify the form(s)/mean(s) of advertisement the applicant/owner is using to advertise the services to the general public. For example: newspaper advertisements, business cards, brochures, flyers, pamphlets, menus, etc. If the mark is being used in connection with a type of service, state how the name, logo, design and/or slogan are/is being used in advertising here:

Adverstising and promotion of services, business cards, brochures, menu boards,  
packaging, signage

**TRADEMARKS:** If the name, logo, design and/or slogan are/is being used to identify a product manufactured by or fore the applicant/owner, you must specify how the mark is applied or affixed to the actual product or its packaging. For example: a tag, label, imprinted or engraved on the actual product, etc. If the mark is being used in connection with a specific product, state how the name, logo, design and/or slogan is applied or affixed to the actual product(s) or the packaging:

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2. (d) **FEE(S) AND CLASS(ES):** There are a total of 45 classes or categories in which all products or services must be categorized. The fee to register a mark is \$87.50 per class. Make check payable to Florida Department of State.

List the class(es) which apply to the product(s) and/or service(s) listed in 2(a) and/or 2(b) above:

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**PART II**

1. You must state the date the name, logo, design and/or slogan was first used in the state of Florida, and, if it was used in another state or country, the date you first used the name, logo, design and/or slogan in the other state or country. Enter the month, day, and year the name, logo, design and/or slogan was first used by the applicant/owner, the predecessor, or a related company in Florida. If the name, logo, design and/or slogan has been used in another state or country, then you must also enter the month, day, and year the name, logo, design and/or slogan was/were used in another state or country, when applicable.

**Note: The Florida Statutes require a mark to be in use prior to registration.**

(a) Date first used in other state or country, if applicable: At least as early as 11/30/2010

(b) Date first used in Florida: At least as early as 11/20/2010

**PART III**

**ENTER NAME, LOGO, DESIGN AND/OR SLOGAN BEING REGISTERED:**

1. Enter the name, a brief description of the logo or design, and/or the slogan you are registering. The description of the logo and/or design must be 25 words or less. List the exact name, slogan, and/or description of the logo/design here: (NOTE: The name, logo, design and/or slogan listed in this section must match the exact name, logo, design and/or slogan listed on your specimens or examples.)

**GRAN PARIS BAKERY**

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Provide the English translation of any and all terms listed #1 above, when applicable: **GREATER PARIS BAKERY**

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2. **DISCLAIMER STATEMENT** (if applicable):

Your mark may include a word or design that is commonly used by others. Commonly used terms or designs must be disclaimed. When you disclaim a specific term or design, you are acknowledging this term is commonly used by others and that you do not claim the exclusive right to use the disclaimed term or design. All geographical terms and representations of cities, states or countries must be disclaimed (i.e., Miami, Orlando, Florida, the design of the state of Florida, the design of the United States of America, etc.). Corporate suffixes and terms readily associated with the specific product(s) and/or(s) service being provided must also be disclaimed.

Enter all terms listed in #1 above which require a disclaimer in the space provided below:

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE THE TERM(S) "**BAKERY**"

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"APART FROM THE MARK AS SHOWN."

3. ATTACH OR INCLUDE THREE SPECIMENS OR EXAMPLES OF THE TRADEMARK OR SERVICE MARK BEING REGISTERED

Chapter 495, F.S., requires you to submit three specimens (samples or examples) of the mark in use. You must submit three specimens FOR EACH CLASS listed in Part I #2(d). The name, logo, design and/or slogan on the specimens must be identical to the name, logo, design and/or slogan being registered. You may provide three identical specimens or three different specimens. For each service mark class (classes 35-45), you may provide three newspaper advertisements, business cards, brochures, flyers, or any combination thereof. For each trademark class (classes 1-34), you may provide three tags, labels, boxes, etc. or any combination thereof. Photographs of bulky specimens are acceptable if the mark being registered and the good(s) or product(s) are clearly legible.

SIGNATURE OF APPLICANT/OWNER AND NOTARIZATION:

I, Segundo Pla, Sr., being sworn, depose and say that I am the owner and the applicant herein, or that I am authorized to sign on behalf of the owner and applicant herein, and to the best of my knowledge no other person except a related company has registered this mark in this state or has the right to use such mark in Florida either in the identical form thereof or in such near resemblance as to be likely, when applied to the goods or services of such other person to cause confusion, to cause mistake or to deceive. I make this affidavit and verification on my/the applicant's behalf. I further acknowledge that I have read the application and know the contents thereof and that the facts stated herein are true and correct.

Superior Cakes, Inc.
Typed or printed name of applicant

Segundo Pla
Applicant's signature
(List name and title)

STATE OF Florida

COUNTY OF Miami-Dade

Sworn to and subscribed before me on this 24 day of January 2013 Segundo Pla
(Name of Individual Signing)

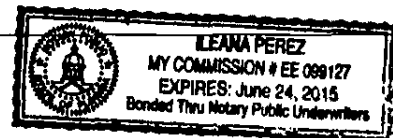
who is personally known to me whose identity I proved on the basis of

Leana Perez
Notary Public Signature
Notary's Printed Name

(Seal)

My Commission Expires:

FILING FEE: \$87.50 per class



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13 APR 23 AM 11:30
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TALLAHASSEE, FLORIDA

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OLD RECORDS  
SUNON PRODUCTS

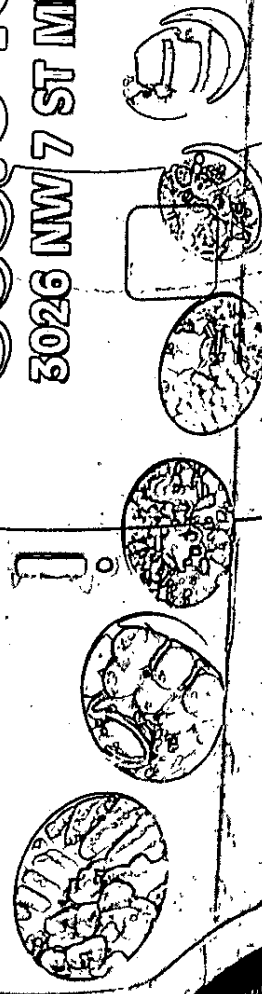
# Gran Paris Bakery

WHOLESALE - RETAIL - CATERING

305.643.4281

3026 NW 7 ST Miami, FL 33125

www.GranParisBakery.com



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Years of Experience

